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SIPDIS

USTR FOR RUSSELL SMITH
WHA/CAR
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STATE PASS TO AID FOR LAC/CAR
TREASURY FOR MAUREEN WAFER
USDOC FOR 4322/ITA/MAN/WH/OLAC/ (SMITH, S.)

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TAGS: [ECON](#) [ETRD](#) [HA](#)

SUBJECT: Haiti: Information on Caribbean Basin Recovery Act

REF: SECSTATE 188288

1. Per reftel, following is information for USTR to use in preparing its biannual report on the operation of the Caribbean Basin Economic Recovery Act. Responses are in narrative form and are keyed to the specific questions in paragraphs six and seven of reftel.

2. Responses to Questions from paragraph six:

(1) Haiti has a relatively open trade regime and has committed to undertake and fulfill its obligations under the WTO on or ahead of schedule. Due to resource constraints, the Government of Haiti only participates on a limited basis in international negotiations. The Interim Government of Haiti (IGOH) has indicated informally that it would like to participate in a free trade agreement with the United States, but also that it is not ready to begin negotiations at this time.

(2) Haiti's major laws governing intellectual property protection date from the early- to mid-twentieth century and have not been updated to reflect the provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Limited manufacturing capacity, lack of disposable income, and paucity of tourist traffic mean that commercial piracy is limited. Weak judicial institutions result in poor enforcement and erode the protection offered by current statutes.

(3) The Constitution and the Labor Code provide the right of free association to both public and private sector workers. The economy's informal nature makes estimations of workforce participation and unionization difficult, but the number is probably relatively low. Persistent high unemployment and the lack of a large manufacturing sector have also limited union organizing activities. Employers usually set wages unilaterally, though wages in the formal sector are usually higher than the legal minimum wage. The Labor Code prohibits forced or bonded labor for adults and minors. Though Haitian law provides a framework for internationally recognized worker rights, such rights are often violated or circumscribed, particularly in the informal or underground economy.

Workers in export processing zones enjoy the same rights as workers elsewhere in the country, and their working conditions are usually better than those in the economy at large. Due to concerns from U.S. customers, and because Haitian companies using CBI benefits are aware of the eligibility criteria, it is likely that these beneficiary companies are more sensitive to labor standards.

The minimum employment age is 15, and minors are prohibited from working in dangerous conditions and working at night in industrial enterprises. Legislation passed in 2003 removed exceptions in the labor law that had previously allowed children to work as domestic servants beginning at age 12. Fierce adult competition for the few available jobs in the industrial sector means that child labor is not a factor in the formal economy, but there are reports of compulsory and child labor in the rural and informal sectors. Internal trafficking of children for domestic labor remained a widespread problem; see description of the problem in the following sections.

Haiti has signed but not ratified ILO Convention 182. The country has signed a Memorandum of Understanding with the ILO International Program for the Elimination of Child Labor and is working with the ILO on various programs aimed at phasing out exploitative child labor.

(4) Haiti was categorized as a Tier 2 Watch List country for failure to show evidence of increasing efforts to combat trafficking in persons over the past year. The majority of trafficking in Haiti involves the internal

movement of children for forced domestic labor, referred to as "restaveks." The restavek tradition is widespread in Haiti, and fraught with abuse. Poor rural families sometimes give custody of their children to urban, more affluent families or other family members, in the hope that they will receive an education and economic opportunities. However, the reality is often mistreatment, abuse, and long hours of uncompensated labor. The IGOH estimates there are 90,000-120,000 children in coercive labor conditions as restaveks, but UNICEF estimates the number is much higher, between 250,000 and 300,000. Since the political crisis in Haiti, the interim government has attempted to address trafficking in the country. However, there is much more that needs to be done and the newly elected government, which is scheduled to take office in February 2006, should be committed to addressing these issues, including the large-scale exploitation of restavek children.

(5) Haiti meets U.S. counter-narcotics certification criteria under the Foreign Assistance Act of 1961.

(6) Haiti became a party to the Inter-American Convention Against Corruption (IACAC) when its ratification was published in July 2002. However, the country is still widely viewed as one of the most corrupt countries in the world. There has been some limited progress under the interim government. Under recent IMF agreements, the IGOH has drastically cut back on the use of "current accounts" which are often used by corrupt officials to fund personal or political expenditures. In addition, the IGOH has begun to conduct audits of several state-owned enterprises in order to eliminate ghost employees. The IGOH's Financial Intelligence Unit, with assistance from the U.S. government, is actively investigating corruption by the previous regime. Despite these steps, corruption still remains endemic in the country.

(7) Government procurement is still characterized by procedures that are inadequately transparent and corruption is common.

13. Responses to questions in paragraph seven:

There are no active cases of the government nationalizing or expropriating the property of a U.S. citizen, although there are several dormant cases where no action has been taken by either party for a number of years. Post has seen no evidence of the country failing to act in good faith in recognizing arbitral awards in favor of U.S. citizens. Post is not aware of any preferential treatment to products of a developed country that has an adverse effect on U.S. commerce. Government entities do not, as a matter of policy or general practice, broadcast copyrighted material belonging to U.S. copyright-holders without their express consent. The U.S. has an extradition treaty with Haiti (Extradition Treaty between Haiti and the United States of 1904). Under this treaty, however, Haitians do not extradite their citizens, but will extradite U.S. citizens under a Mutual Legal Assistance Treaty (MLAT).

In February 2004, President Aristide resigned and left the country following an outbreak of political violence directed at overthrowing his regime. An interim government took over and governs Haiti until new elections take place, currently set for December 2005 and January 2006. A new, democratically elected government is scheduled to be inaugurated in February 2006.

Haiti is one of the poorest countries in the world; it is the poorest country in the western hemisphere. Average income is estimated at between USD 300 and 400. Growth in FY 2005 was 1.5 percent, following a 3.8 percent drop in FY 2004. Much of the FY 2004 drop was due to political violence and natural disasters. The economy has been in a long-term decline, averaging negative growth over the past 25 years. The economy consists of retail trade, small-scale agriculture, light manufacturing and some services. Most of the economy exists in the informal sector and is unregulated. Haiti runs a large trade deficit; its largest trading partner is the United States, which accounts for over half of its exports and imports. Haiti's major export is apparel, such as tee shirts. A major component of the economy is remittances, estimated at more than USD 1 billion per year and foreign aid, at approximately USD 500 million last year. Without that assistance, particularly remittances that go directly to the pockets of Haitians, the economic situation in Haiti would be much worse.

Haiti has a relatively open trading regime and utilizes few, if any, export subsidies or trade distorting export performance or local content requirements. Because Haiti's economy is so small and it trades little with its Caribbean neighbors, the country's trade policies contribute only marginally to the revitalization of the region as a whole, although its trade policies certainly do not impact the region negatively. The country is doing what it can to promote its own economic development, given limitations

caused by the paucity of resources and the recent history of violence and natural disasters. Haiti generally cooperates closely with the United States on economic issues.